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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/035,561	11/07/2001	Guo-Bin Wang	11113/9	3657

26646 7590 08/25/2004

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EXAMINER

BRUENJES, CHRISTOPHER P

ART UNIT	PAPER NUMBER
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1772

DATE MAILED: 08/25/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

S.E.

# Office Action Summary

Application No.

10/035,561

Applicant(s)

WANG ET AL.

Examiner

Christopher P Bruenjes

Art Unit

1772

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

- 1) ☒ Responsive to communication(s) filed on 01 July 2004.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

## Disposition of Claims

- 4) ☒ Claim(s) 31-35 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 31-35 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

## Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

## Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date 20011107, 20040115.
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_.

**DETAILED ACTION**

**EXAMINER NOTE**

The claims as presented in the last amendment are listed as claims 30-34 but are actually 31-35, as presented in previous amendments.

***Continued Examination Under 37 CFR 1.114***

1. A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on July 1, 2004 has been entered.

**WITHDRAWN REJECTIONS**

2. The 35 U.S.C. 112 rejections of claims 31-35 of record in the Office Action mailed December 29, 2003, Page 3 Paragraph 4, have been withdrawn due to Applicant's amendments in the Paper filed July 1, 2004.

**REPEATED REJECTIONS**

3. The 35 U.S.C. 102 rejections of claims 31-35 as anticipated by Fydelor are repeated for the reasons previously of record in Paper #5, Page 4 Paragraph 4.

Regarding the newly added limitation, Fydelor et al teach that the hydrophilic thermoplastic graft copolymer is grafted at least at the surface of the substrate or base polymer (see abstract) and the graft polymerization is initiated by organic free radicals (col.3, 1.11-17).

4. The 35 U.S.C. 102 rejections of claims 31-35 as anticipated by Michal are repeated for the reasons previously of record in the Office Action mailed December 29, 2003, Pages 3-4 Paragraph 5.

Regarding the newly added limitation, Michal et al teach that the graft polymerization is initiated by a photoinitiator, which forms organic free radicals (col.10, 1.56-64). The photoinitiator includes benzophenone and derivatives thereof (col.11, 1.11-16). The organic free radicals initiators of the present invention as defined by the specification, includes photoinitiators such as benzophenone and derivatives thereof (see instant specification p.15, 1.4-6 and p.16, 1.18-20). The initiator is on the surface of the substrate because the graft

itself is grafted to the surface of the substrate (col.11, 1.5-10).

*ANSWERS TO APPLICANT'S ARGUMENTS*

5. Applicant's arguments regarding the 35 U.S.C. 112 rejections of record have been considered but are moot since the rejections have been withdrawn.

6. Applicant's arguments regarding the 35 U.S.C. 102 rejections of claims 31-35 as anticipated by Fydelor have been fully considered but they are not persuasive.

In response to Applicant's argument that Fydelor fails to teach that the initiators are localized on the surface of the substrate, Fydelor teaches that the graft polymerization takes place at the surface of the biocompatible surgical device or substrate (see abstract). Therefore, if the grafting takes place at the surface of the substrate then the initiator must be at the surface otherwise it would not be initiating the graft.

7. Applicant's arguments regarding the 35 U.S.C. 102 rejections of claims 31-35 as anticipated by Michal have been fully considered but they are not persuasive.

In response to Applicant's argument that Michal fails to teach initiation of polymerization with a free radical initiator, although Michal does teach using UV light, Michal also teaches that the UV light induces free radicals in photoinitiators (col.10, 1.56-65). Michal further teaches that the photoinitiators include benzophenone, which is an organic photoinitiator that is an example of free radical initiator in the instant specification. Therefore, although Michal may teach that UV light is required to induce the free radicals, Michal does teach an organic free radical initiator, such as benzophenone. Neither the claims nor the specification teach that the free radical initiator used to initiate the graft polymerization does not use UV light to induce the free radicals.

#### **Conclusion**

8. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Christopher P Bruenjes whose telephone number is 571-272-1489. The examiner can normally be reached on Monday thru Friday from 8:00am-4:30pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Harold Pyon can be

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reached on 571-272-1498. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Christopher P Bruenjes  
Examiner  
Art Unit 1772

CPB

August 16, 2004

*CPB - B -*

*[Signature]*  
HAROLD PYON  
SUPERVISORY PATENT EXAMINER  
1772

*8/20/04*